IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NOs : 20697 & 25950 of 1998

1) **WRIT PETITION NO: 20697 of 1998**

Between:

1. S. Sammaiah S/o. Somaiah, aged 35 years,
R/o. Nallegunta.
2. Md. Sathar S/o. Abdul Khan, aged 34 years,
R/o. Nallegunta.
3. Syed Yakoob Pasha S/o. Syed Rasool, aged 34 years,
R/o. Ramanujapoor.
4. A. Kanthaiah s/o. Kanakaiah,aged 28 years,
R/o. Nashikal , Ganapuram.
5. R. Venkataram Reddy S/o. Mohan Reddy, aged 32 yrs, R/o. Devunoor.
6. M. Komuraiah S/o. Yellaiah, aged 34 years,
R/o. Desayitandu, Ganapuram.
7. M. Sanjeevaiah S/o. Sammaiah, aged 30 years,
R/o. Pasarukonda, Atmakur Village & Mandal.
8. V. Bhadra Reddy S/o.Veera Reddy, 36 yrs. R/o.Rampur
9. V. Sammi Reddy S/o. Veera Reddy, aged 42 years,
R/o. Vurattam.
10. K. Raghavendra Swamy S/o. K. Bhaskar, aged 31 yrs, R/o. Peddapoor
11. J. Ratnakar S/o. Lomaiah, aged 33 years,
R/o. Devagiripatnam.
12. J. Laxmipathi S/o. Rajaiah, aged 33 years,
R/o. Kannaigudem.
13. G. Mohan Reddy S/o. Veera Reddy, aged 37 years,
R/o. Bhapakanagar, Molugu mandal & Village.
14. Y. Venkat Narasaiah S/o. Ramachandraiah, aged 31 years, R/o. Bhusapur, Govindaraopet.
15. S. Kumar Swamy S/o. Cheralu, aged 33 years,
R/o. Pasara.
16. T. Rajeswar Rao S/o. Sathaiah, aged 29 years,
R/o. Paidipally.

17. T. Babu Rao S/o. Sathaiah, aged 29 years,
R/o. Gunturpalli.
18. M. Ramulu S/o. Komaraiah, aged 29 years,
R/o. Gunturapalli.
19. V. Bhikshapathi S/o. Lingaiah, aged 29 years,
r/o. Tirumalapur, Village & Mandal.
20. P. Babu S/o. Rajaiah, aged 27 years,
R/o. Chityala, Mandal & Village.
21. D. Narasaiah s/o. Madhaviah, aged 39 years,
R/o. Chityala.
22. Md. Jammal S/o. Mohd. Jasni Mohammed, aged 27 years, R/o. Chityala.
23. B. Narrender Reddy S/o. Kasi Reddy, aged 36 years,
R/o. Gundalasagar, Dharmasagar.
24. K. Mahender Reddy s/o. Narasimha Reddy, aged 36 years, R/o. Jeevithapuram, Dharmasagar.
25. K. Narasiah S/o. Venkataiah, aged 27 years,
R/o. Chintakanakonda, Mandal Parvathagiri.
26. K. Ravinder S/o. Buchi Ramulu, aged 28 years,
R/o. intekanne, Mesamudram.
27. M. Illaiah S/o. Narasaiah, aged 31 years,
R/o. Dhanasari, Kesamudram.
28. A. Yekaiah S/o. Sathaiah, aged 29 years,
R/o. Intekanne, Kesamudram.
29. G. Venkateswarlu S/o. Chennaiah, aged 33 years,
r/o. Komatipalli, Kesamudram.
30. M. Ramulu S/o. Mallaiah, aged 42 years,
R/o. Kalvar, Kesamudram.
31. Polaku Babu S/o. Sambaiah, aged 38 years,
R/o Ponakallu.
32. Poghu Rajaiah S/o. Narasaiah, 29 years,
R/o. Rakanapalli.
33. Gundaboina Veeraswamy S/o. Balaiah, aged 28 years,
R/o. Bobberapalli.
34. Aadepu Ramesh S/o. Kondaiah, aged 33 years,
R/o. Chalaparthi.
35. Bendi Buchaiah s/o. Lingaiah, aged 29 years,
R/o. Reballe.
36. Gullepalli Sarangapani S/o. Lingaiah, aged 29 years,
R/o. Mynapalli.
37. Joonuru Kumara Swamy S/o. Cheralu, aged 28 years,
R/o. Desaipalli.
38. L. Kesava Reddy s/o. Bondal Reddy, aged 37 years,
R/o. Thogarai.

(All the above petitioners are working as Village Electricity Workers and belong to Warangal Zone)

...PETITIONERS

AND

1. The Industrial Tribunal-cum-Labour Court at Waragal rep. by its Presiding Officer, Warangal.

2. The Superintendending Engineer, Andhra Pradesh State Electricity Board, Operation Circle.
Nakkalagutta, Hanumakonda, Warangal.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the first respondent and issue an appropriate writ, order or direction, particularly one in the nature of Writ of Certiorari and quash the order passed by the first respondent in M.P.No.66 of 1993 dated 13-11-1996 and grant all consequential benefits and allow the writ petition with costs.

2) <u>WRIT PETITION NO : 25950 of 1998</u>

Between:

1. S. Sammaiah S/o. Somaiah, aged 35 years,
R/o. Nallegunta.
2. Md. Sathar S/o. Abdul Khan, aged 34 years,
R/o. Nallegunta.
3. Syed Yakoob Pasha S/o. Syed Rasool, aged 34 years,
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R/o. Desayitandu, Ganapuram.
7. M. Sanjeevaiah S/o. Sammaiah, aged 30 years,
R/o. Pasarukonda, Atmakur Village & Mandal.
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16 T. Rajeswar Rao S/o. Sathaiah, aged 29 years,
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R/o. Gunturpalli.
18 M. Ramulu S/o. Komaraiah, aged 29 years,
R/o. Gunturapalli.

19. V. Bhikshapathi S/o. Lingaiah, aged 29 years,
r/o. Tirumalapur, Village & Mandal.
20. P. Babu S/o. Rajaiah, aged 27 years,
R/o. Chityala, Mandal & Village.
21. D. Narasaiah s/o. Madhaviah, aged 39 years,
R/o. Chityala.
22. Md. Jammal S/o. Mohd. Jasni Mohammed, aged 27 years, R/o. Chityala.
23. B. Narrender Reddy S/o. Kasi Reddy, aged 36 years,
R/o. Gundalasagar, Dharmasagar.
24. K. Mahender Reddy s/o. Narasimha Reddy, aged 36 years, R/o. Jeevithapuram, Dharmasagar.
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29. G. Venkateswarlu S/o. Chennaiah, aged 33 years,
r/o. Komatipalli, Kesamudram.
30. M. Ramulu S/o. Mallaiah, aged 42 years,
R/o. Kalvar, Kesamudram.
31. Polaku Babu S/o. Sambaiah, aged 38 years,
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(All the above petitioners are working as Village Electricity Workers and belong to Warangal Zone)

...PETITIONERS

AND

1. The Industrial Tribunal-cum-Labour Court, Warangal Rep. by its Presiding Officer.

2. The Andhra Pradesh State Electricity Board Rep. By its Superintending Engineer, Operation Circle, Nakkalagutta, Hanamkonda, Warangal.

3. The Andhra Pradesh State Electricity Board Rep. By its Secretary, Vidyuth Soudha, Khairatabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent and issue an appropriate writ, order or direction, particularly one in the nature of Writ of Certiorari, and quash the order passed by the 1st respondent in E.P.No.34/1997 dated 07/04/1998 as illegal, unjust and contrary to law, and grant all consequential benefits.

Counsel for the Petitioners (in both cases): MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1(in both cases) : GP FOR LABOUR

Counsel for the Respondent No.2 in WP.No.20697 of 1998 and Respondents 2 & 3 in WP.No.25950 of 1998:

MR.RAVINDRANATH.S.

The Court made the following :

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ORAL ORDER:

In both these writ petitions, the petitioners and the respondents are common. The admitted facts are that the petitioners while working as Village Electricity Workers in Andhra Pradesh Electricity Board (for short "the Board") have entered into a settlement on 26.10.1991 under Section 12(3) of the Industrial Disputes Act, 1947 (for short "the Act") with the respondent management (seems to be in pursuance of a direction of this Court in W.P.No.7087 of 1991, dated 3.09.1991). The settlement reads as under:

> "The Management A.P.S.E.Board, S.E. Operation Circle agreed to implement the orders of the Hon'ble High Court in the said W.P. (Writ Petition).
>
> A.P.State Electricity Board in B.P.Ms.No.1048 dt.23.9.1989 Personal Secretary prescribed certain qualifications for helpers posts in A.P.State Electricity Board, P.G. Personal M.S.No.369 Personal Services dated 11.12.1990, it is clearly

specified that the workmen in B.P.No.1018 (P.S.) dt.23.9.1989 shall not be applied to these who were in service prior to the issue of B.P. and acquired to read and write qualifications subject to the condition that they should undergo the test to assess their ability to read and write and also to take meter readings.

In view of the 21 petitioners W.P.M.P.No.17107/91, dated 11.10.1991 and 18 petitioners in W.P.M.P.No.8797/91, dated 3.9.1991, the Management of A.P.State Electricity, S.E., Operation, Warangal agreed to absorb the petitioners as helpers based on principles of reading as prescribed to then since they have been in employment from 1984 and onwards

With regard to the helpers category, the matters are settled as above and with regard to helpers category the Union has not pressed further demands. The Management A.P.S.E.Board, S.E. Operation, Divisional Engineer, Warangal has agreed to the above settlement

Both the Union and Management has agreed to the above settlement signed before the Asst.Commissioner of Labour and Conciliation Officer, Warangal to-day this the 26th October, 1991 as matters finally settled."

When the said settlement was not implemented, the petitioners have filed the Writ Petition No.16523 of 1991 and the same was allowed on 10.04.1992 with the following direction:

"In view of the above, there will be a direction that the respondents shall consider the claims of the petitioners for appointment as helpers in terms of the settlement dt.26.10.1991 which the respondents had entered into with the Trade Union representing the petitioners. I make it absolutely clear that I am not pronouncing upon the entitlement of the petitioners to be treated as workmen directly employed by the State Electricity Board. I rest this decision entirely on the basis of the industrial agreement which is enforceable as long as it lasts. I also make it clear that this judgment will not in any manner affect the right, if any, of the respondents to seek modification or termination of the agreement in any manner known to law. Writ Petition is allowed as above. There will be no order as to costs."

In the above writ petition, even it was argued by the learned counsel for the Board that the settlement itself was not binding since it was not properly made. This Court repelled the said contention stating that so long as the settlement is in existence, it cannot be said that the settlement is not binding on the Electricity Board, and directed as stated supra. In spite of the said direction, the case of the petitioners was not considered. Therefore, they have approached the Labour Court and filed M.P.No.66 of 1993 under Section 33-C (2) of the Act, claiming the difference of wages, since as per the settlement, it must be deemed that they have already been

absorbed as helpers on a particular date and as such they are entitled for difference of wages. The said M.P. wad dismissed on 13.11.1996. In my opinion, it was rightly so. Since the settlement dated 26.10.1991 was never implemented, the question of the petitioners treating as being absorbed as regular helpers and paying the salary does not arise. Aggrieved by the said order, the petitioners have filed writ petition No.20697 of 1998. Therefore, I am of the opinion that this writ petition is misconceived and is liable to be dismissed and accordingly, the Writ Petition No.20697 of 1998 is dismissed.

Further, the petitioners have also filed E.P.No.34 of 1997 before the Labour Court for implementation of the settlement entered into between the parties under Section 12 (3) of the Act. This E.P. was also unfortunately dismissed by the Labour Court holding that the petitioners had earlier filed a Writ Petition No.16523 of 1991 and the same was allowed. Further, the petitioners also filed a contempt case in C.C.No.501 of 1992 which was dismissed, and subsequently M.P.No.66 of 1993 was filed and the same was also dismissed on 18.11.1996. In all the above petitions, the respondents were directed to consider the claim of the petitioners, but there was no mandatory provision for implementation and to provide jobs for them. Further, the settlement dated 26.10.1991 is not valid and not executable before it. I am of the considered opinion that when the settlement is in existence, unless and until it is terminated by invoking valid provisions of the Act, it is liable to be executed. However, in this regard, the learned counsel for the Board submits that it is not an award as defined under Section 2(b) of the Act, and as such, it cannot be executed, and the Labour Court has rightly rejected the case of the petitioners. Whereas, the learned counsel for the petitioners drawn attention of this Court to Section 11-B of the Act, which reads as under:

> "Power of Labour Court or Tribunal to execute its award by Decree:-
>
> A Labour Court or a Tribunal shall have the power of a Civil Court to execute its award or any settlement as a decree of a Civil Court."

The above provision was introduced vide A.P.Act 32 of 1987, with effect from 27.07.1987.

On a plain reading of the above provision, it is clear that the Labour Court or the Tribunal has power to execute a settlement as a decree of the Civil Court. Therefore,

I am of the considered opinion that the rejection of the petition in E.P.No.34 of 1997 by the Labour Court on 7.04.1998 does not stand the scrutiny of law. The management has not disputed as to the existence of the settlement as on date. The only contention of the management was that the settlement was not properly made. If it is not properly made, nothing prevented the management from taking proper course of action as available under the law. So far as the settlement is in existence, it is liable to be executed before the Labour Court under Section 11-B of the Act. Therefore, the order dated 7.04.1998, passed by the Labour Court in E.P.No.34 of 1997 is liable to be set aside. Accordingly, the writ petition is allowed to the above extent and the matter is remanded for reconsideration.

Accordingly, W.P.No.20697 of 1998 is dismissed and W.P.No.25950 of 1998 is allowed. No costs.

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4th October, 2004

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That Rule Nisi in W.P.No.25950 of 1998 has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Monday, the fourth day of October, two thousand and four.

ASSISTANT REGISTRAR

To

1. The Presiding Officer,

Industrial Tribunal-cum-Labour Court,

Warangal.

2. The Superintending Engineer,

Andhra Pradesh State Electricity Board, Operation Circle,

Nakkalaguta, Hanumakonda, Warangal.

3. The Secretary,

A.P. State Electricity Board, Vidyuth Soudha,

Khairatabad, Hyderabad.

4. Two C.Cs to Government Pleader for Labour,

High Court Buildings, Hyderabad (OUT).

5. Two CD copies